BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI.

I.

Opinion of Court Below.

The opinion of the United States Circuit Court of Appeals for the Eighth Circuit is reported in 112 F. 2d 612, and at pages 485-490 of the transcript of the record. The opinion of the trial court is reported in 26 Fed. Supp. 587 and at pages 455 to 459 of the record.

II.

Jurisdiction.

1. The date of the judgment to be reviewed is April 9th, 1941.

2. The statutory provision which is believed to sustain the jurisdiction of this court is the following: Section 347, 28 United States Code Annotated, providing:

> "* * * in any case, civil or criminal, in a circuit court of appeals * * * it shall be competent for the Supreme Court of the United States upon the petition of any party thereto, whether government or other litigant, to require by certiorari, either before or after a judgment or decree of such lower court that the cause be certified to the Supreme Court for determination by it with the same power and authority and with like effect as if the cause had been brought there by unrestricted writ of error or appeal."

(Which said statute in its present form was adopted February 13, 1925, 43 Statutes 938.)

III.

Statement of the Case.

This has already been stated in the preceding petition. It is hereby adopted and made a part of the brief.

IV.

Specification of Errors.

1. The court erred in holding that the judge of the trial court committed no error in holding that plaintiff's patent was an odious monopoly and that its use in the accused construction because it was a new car and not an old did not infringe.

2. The court erred in affirming the ~~fundamental~~ finding of the trial court after it had found that Findings of Fact 3 and 7 were erroneous by finding contrary to said findings by the trial court that one of the elements of the accused structure which was a factor in the lowering was a rear ~~of the~~ spring behind the rear axle and in failing to find ~~what~~ that the Z bracket was a duplicate in form, operation and result of the Z ~~bracket~~ or at least a mechanical equivalent thereof.

3. The court erred in holding that petitioner had no right to recover.

Argument.

The reasons given in the petition for the writ together with the facts stated in the petition so plainly state the position of the petitioner and ~~so~~ his right to have the writ prayed for ~~ensued~~ issued that he waives argument.

Conclusion.

It is therefore respectfully submitted that this case is one calling for the exercise by this court of its supervisory powers, in order that justice be done herein and that the conflicts on the important questions herein involved be corrected and that to such end a writ of certiorari should be granted and this court should review the decision of the United States Circuit Court of Appeals for the Eighth Judicial Circuit and finally reverse it.

Respectfully submitted,

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